

**COPY**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

PALIARD et al.

Serial No.: 09/698,874

Art Unit: 1648

Filing Date: October 27, 2000

Examiner: B. Li

Title: ACTIVATION OF HCV-SPECIFIC T CELLS

**DECLARATION PURSUANT TO 37 CFR §1.131**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

We, Xavier Paliard, Michael Houghton and Mark Selby, hereby declare as follows:

1. We are the inventors of the above-captioned patent application ("the Application").
2. We understand that the U.S. Patent and Trademark Office has rejected the claims in the Application in an Office Action mailed April 26, 2002 under 35 U.S.C. §103(a), on the basis of a combination of references including Cho et al., *Vaccine* (March 1999) 17:1136-1144 ("Cho").
3. We submit this Declaration to show that we had prepared recombinant constructs encoding fusion proteins containing HCV NS3, NS4 and NS5a, as well as HCV NS3, NS4, NS5a and NS5b, prior to March 1999. Attached are notebook pages which establish this. The dates on the submitted pages have been redacted. However, the work described on these pages predates March 1999 and was performed in the United States.
4. In particular, as shown in Exhibit A, we had developed a pCMV vector encoding an HCV fusion protein including NS3, NS4, NS5a and NS5b. This vector is

termed "pCMV.KM.NS3-5" in Exhibit A. Similarly, as shown in Exhibit B, we had developed a pCMV vector encoding an HCV fusion protein including NS3, NS4 and NS5a. See, the gel shown in Exhibit B.

5. We declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

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Xavier Paliard

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Date

M Houghton

Michael Houghton

10/4/02

Date

Mark Selby

Mark Selby

10/11/02

Date